*THE HON'BLE SRI JUSTICE P.S.NARAYANA

+W.P.No.16929 of 2007

% 26-10-2007

Bhagyanagar Hatcheries Pvt.Ltd.
And another ..
petitioners

And

$ The District Collector, Nalgonda District
And others ..
Respondents

<GIST:

>HEAD NOTE:

! Counsel for petitioners : Sri S.Lakshma Reddy

^ Counsel for respondents : Assistant Government Pleader for
Irrigation

? CASES REFERRED :

NIL

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.16929 of 2007

Date : 26-10-2007

Between :

Bhagyanagar Hatcheries Pvt.Ltd.
And another ..
petitioners

And

The District Collector, Nalgonda District
And others ..
Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.16929 of 2007

ORDER:

1. Heard Sri Lakshma Reddy, the learned Counsel representing the writ petitioner and the learned A.G.P. for Irrigation.

2. The Displaced Ryots Association, Telugu Ganga Project filed the present Writ Petition for a writ of mandamus or any other appropriate writ, order or direction declaring the action of the 1st respondent in not issuing necessary clarifications pursuant to the 2nd respondent's letter No.CE(P)/TGP/Code of Discipline/8640/R&R/CDP dated 25-11-2006 and further action of the respondents in proposing to execute the civil contract works in

Rehabilitation Centres and colonies of Telugu Ganga Project (SPVBC) displaced persons by contract/middlemen system as totally illegal and in violation of the recommendations of the R.R. Committee and consequently to direct the 1st respondent to accord permission to the 2nd respondent for entrustment of civil works to the elected Habitation Committees forthwith in accordance with the recommendations of the R.R. Committee for the implementation of the Rehabilitation Master Plan and to pass such other suitable orders.

3. It is stated that the petitioner-Association is a representative registered Association under Co-Operative Societies Act to represent and espouse the cause of displaced ryoths in all the six villages acquired and submerged under the Telugu Ganga Project (SPVB) Reservoir. As per the decision of the Central Government in G.O.Ms.No.324, dated 1-12-1998 according permission for the construction of Telugu Ganga Project, the State Government has to provide a Rehabilitation Master Plan with reference to various items provided under G.O.Ms.No.324, dated 1-12-1998 by constituting a Rehabilitation & Resettlement Committee (R.R. Committee). Accordingly, the Government had constituted R.R. Committee by issuing G.O.Ms.No.30

dated 15-2-1994. The R.R. Committee will be comprised of District Collector as the Chairman, Chief Engineer and 8 other members representing various other Departments. A Master Plan was prepared and the same was approved by the Central Government. In implementation of the Master Plan, administrative sanction for a sum of Rs.17.10 crores was accorded by the State Government towards S.P.V.B. Reservoir affected displaced persons who are the beneficiaries of the petitioner's Association. As per the Rehabilitation Master Plan, the respondents shall establish Rehabilitation Centres and Colonies wherever more than 25 to 50 families are settled in an area. Accordingly about 20 centres were established viz., Sriram Nagar and Maruthi Nagar, Bhagya Nagar, T.Ramapuram, Laxminarayana Puram, Ravindranagar, Kotha Basavapurma, New Gollapalli, Balaji Nagar, New Cheekativari palli, G.V. Satram, B.Matham, T.G.P. Colony, Chennampalli, Somireddy Palli, Choudarivaripalli, Rekalakunta (Rani Bavi), D.Agraharam and C.Kothapalli etc., with the total of nearly 1985 displaced families. The R.R. Committee has recommended for election of a Habitation Committee for each Rehabilitation Centre so as to entrust the said elected Habitation Committee with the execution of the civil works for avoiding intermediate agencies and contractors. When the respondents had

notified the execution of the civil works by contractors through tenders, the petitioner approached this Court in W.P.No.16257/99 and this Court disposed of the Writ Petition on 30-9-1999 with the following direction :

> "The Writ Petition is, therefore, disposed of directing the respondents to give preference in allotting the civil works in the proposed resettlement and rehabilitation centres as well as in the existing R&R Colonies to the elected Habitation Committees so as to avoid middleman and contractors. No costs".

It is also further stated that the Government in Memo dated 24-1-2000 had clarified that the involvement of the petitioner-Association in the anti-poverty programme, housing i.e., constructing their own houses is unexceptionable but for entrusting other civil works detailed guidelines are needed including quality checks and the Chief Engineer is directed to take necessary action in accordance with the aforesaid letter. Since the Chief Engineer found the order of this Court in W.P.No.16257/1999 as amounting to granting a positive direction, at variance with the clarification issued by the Government, he filed a review before this Court and this Court was pleased to modify the said order in Review W.P.M.P.No.238/2000 dated 17-1-2003 as hereunder:

> "The guidelines issued by the Government, it is not denied before me, only allow the competent authority to consider Habitation Committee on preferential basis for allotment of civil works. However, while passing orders a positive direction is given by this Court. Therefore, it is clarified that the petitioner in W.P.No.16257/1999, who claims to be President of Habitation Committee of T.Ramapuram village has no enforceable right for being allotted civil works and it has preferential right. As and when civil works are taken, the competent authority shall consider the case of the Habitation Committee in accordance with the Government guidelines."

It is also further stated thereafter when the respondents were not implementing the Rehabilitation Master Plan, this Court had issued direction in a batch of Writ Petitions in W.P.No.4848/1998 and 5 other Writ Petitions to complete the process of rehabilitation by immediate release of necessary funds already sanctioned vide G.O.Ms.No.58 dated 1-6-1996 and pursuant to the said direction, the Government had now issued G.O.Ms.No.88 releasing the funds for undertaking the civil works and other rehabilitation programme. The petitioner made a representation to the respondents on 1-6-2006 to entrust the civil works to the elected Habitation Committees as per the direction of this Court referred supra. The 2nd

respondent again sought for a clarification from the 1st respondent vide his letter dated 25-11-2006 as to whether the Habitation Committee with at least one Engineer with Diploma qualification as a Member of a Committee or in the absence of such qualified Engineer in the elected Habitation Committee, whether the Habitation Committee can be entrusted with civil works on condition that they engage the required technical personnel on hire basis so as to execute the civil works as per the Government guidelines. The 1st respondent had not disposed of the said clarification sought by the 2nd respondent by his letter dated 25-11-2006. Pending the clarifications from the 1st respondent, it is stated, now the respondents are proposing to execute the works by calling for tenders which again involves the system of middlemen/contractors against the recommendations of the R.R. Committee constituted under G.O.Ms.No.30 dated 15-2-1994. It is also further stated that now there are a number of eligible and qualified Civil Engineers with Diploma and Graduate qualifications available among the displaced persons and the Government guidelines can be implemented by including such qualified Civil Engineers in the elected Habitation Committees for executing the quality work to the satisfaction of the beneficiaries and to

the Department. In such circumstances, the petitioners approached this Court praying for the reliefs specified supra.

4. In the counter affidavit filed by the 2nd respondent it is stated that it is a fact that during review meeting on R&R of SPVB Reservoir held by the District Collector, Kadapa on 30-11-1998, it was recommended by the R&R Committee that for each rehabilitation center one Habitation Committee may be formed and a decision was taken to submit proposals to the Government for approval for entrusting the civil works of the rehabilitation centres to the Habitation Committees to avoid middlemen/contractors and accordingly the recommendation proposals were submitted to the Government. It is further stated that in the meanwhile, the petitioners had approached this Court and this Court in W.P.No.16257/1999 made the following order:

> "The Writ Petition is, therefore, disposed of directing the respondents to give preference in allotting the civil works in the proposed resettlement and rehabilitation centres as well as in the existing R&R colonies to the elected Habitation Committees so as to avoid middlemen and contractors. No costs".

Further the department filing Review W.P.M.P.No.238/2000 and the order of this Court in the

said Review application had been mentioned. Further, it is stated that by virtue of the said order it is clear that Habitation Committees have no enforceable right, but they have preferential right as and when civil works are taken up and the competent authority shall consider the rehabilitation committees in accordance with the Government guidelines. It is also further stated that in pursuance of the order of this Court, the Government was addressed for issuing guidelines for entrustment of civil works of R&R Colonies of SPVBR displaced persons to Habitation Committees by letter dated 25-11-2006 and the Government after examination of the entire issue of entrustment of civil works to the Habitation Committees had taken a policy decision to call for tenders for civil works in Memo No.34895/LAIV/R&R.II/2006-2, I&CAD(PW) Department dated 17-4-2007. Further, it is stated the civil works of R&R Centres are being planned by involving the P.A.Ps. by conducting Gram Sabhas so as to fulfill the aspirations of the P.A.Ps. of all rehabilitation centres. In view of impounding of water in SPVBR and as all the P.A.Ps. had been vacated, it is proposed to take up the works for which funds had been released by the Government. Further, the works like laying internal roads, drainage system works, construction of buildings for

schools etc., are proposed to be taken up immediately through calling for tenders. Further, as the cost of each of these works is high i.e., more than Rs. 8 lakhs, these works are proposed to be taken up by calling for tenders as per the instructions of the Government explained supra. In the light of the same, the dismissal of the Writ Petition hb prayed for.

5. On a careful analysis of the respective stands taken by the parties, in the light of the affidavit filed in support of the Writ Petition and also the counter affidavit and since it is brought to the notice of this Court that in a way the order made in Review W.P.M.P.No.238/2000 reviewing the order in W.P.No.16257/99 became final and in view of the fact that there are no changed circumstances, this Court is inclined to dispose of the Writ Petition with the following directions.

6. Though the petitioner has no enforceable right of being allotted civil works, the petitioner has a preferential right and as and when civil works are taken up, the competent authority shall consider the case of the Habitation Committees in accordance with the Government guidelines. It is needless to say that even if the preferential right is recognized, the same to be considered in accordance with Law and the same cannot be totally ignored. Hence, let the respondents consider

the cases of the elected Habitation Committees in the light of the preferential right for entrustment of civil works in accordance with Law.

7. With the above directions, the Writ Petition is disposed of. No order as to costs.

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Justice P.S.Narayana

Date : 26-10-2007

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